

CENTER FOR DISABILITY ACCESS
Raymond Ballister Jr., Esq., SBN 111282
Russell Handy, Esq., SBN 195058
Amanda Seabock, Esq., SBN 289900
Zachary Best, Esq., SBN 166035
Aaina Duggal, Esq. SBN 333681
Mail: 8033 Linda Vista Road, Suite 200
San Diego, CA 92111
(858) 375-7385; (888) 422-5191 fax
AainaD@potterhandy.com

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

Orlando Garcia,

Plaintiff,

v.

Welcome Natomas, LLC, a
Delaware Limited Liability
Company;

Defendants,

Case No. 2:20-cv-02163-MCE-AC

**First Amended Complaint For
Damages And Injunctive Relief
For Violations Of: Americans
With Disabilities Act; Unruh Civil
Rights Act**

Plaintiff Orlando Garcia complains of Welcome Natomas, LLC, a
Delaware Limited Liability Company ("Defendant"), and alleges as follows:

PARTIES:

1. Plaintiff is a California resident with physical disabilities. He is
substantially limited in his ability to walk. He suffers from cerebral palsy. He
has the use of only one arm. He uses a wheelchair, walker, or cane for mobility.

2. Defendant Welcome Natomas, LLC, a Delaware Limited Liability

1 Company, owns and operates the Residence Inn by Marriott Sacramento
2 Airport Natomas Hotel, located at 2618 Gateway Oaks Dr., Sacramento,
3 California, currently and at all times relevant to this complaint.

4 3. Plaintiff does not know the true names of Defendants, their business
5 capacities, their ownership connection to the property and business, or their
6 relative responsibilities in causing the access violations herein complained of,
7 and alleges a joint venture and common enterprise by all such Defendants.
8 Plaintiff is informed and believes that each of the Defendants herein,
9 including Does 1 through 10, inclusive, is responsible in some capacity for the
10 events herein alleged, or is a necessary party for obtaining appropriate relief.
11 Plaintiff will seek leave to amend when the true names, capacities,
12 connections, and responsibilities of the Defendants and Does 1 through 10,
13 inclusive, are ascertained.

14
15 **JURISDICTION:**

16 4. The Court has subject matter jurisdiction over the action pursuant to 28
17 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans with
18 Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

19 5. Pursuant to supplemental jurisdiction, an attendant and related cause
20 of action, arising from the same nucleus of operative facts and arising out of
21 the same transactions, is also brought under California's Unruh Civil Rights
22 Act, which act expressly incorporates the Americans with Disabilities Act.

23 6. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is
24 founded on the fact that the real property which is the subject of this action is
25 located in this district and that Plaintiff's cause of action arose in this district.

26
27 **PRELIMINARY STATEMENT**

28 7. This is a lawsuit challenging the reservation policies and practices of a

1 place of lodging. Plaintiff does not know if any physical or architectural
2 barriers exist at the hotel and, therefore, is not claiming that that the hotel has
3 violated any construction-related accessibility standard. Instead, this is about
4 the lack of information provided on the hotel's reservation website that would
5 permit plaintiff to determine if there are rooms that would work for him.

6 8. After decades of research and findings, Congress found that there was
7 a "serious and pervasive social problem" in America: the "discriminatory
8 effects" of communication barriers to persons with disability. The data was
9 clear and embarrassing. Persons with disabilities were unable to "fully
10 participate in all aspects of society," occupying "an inferior status in our
11 society," often for no other reason than businesses, including hotels and
12 motels, failed to provide information to disabled travelers. Thus, Congress
13 decided "to invoke the sweep of congressional authority" and issue a "national
14 mandate for the elimination of discrimination against individuals with
15 disabilities," and to finally ensure that persons with disabilities have "equality
16 of opportunity, full participation, independent living" and self-sufficiency.

17 9. As part of that effort, Congress passed detailed and comprehensive
18 regulations about the design of hotels and motels. But, as importantly,
19 Congress recognized that the physical accessibility of a hotel or motel means
20 little if the 61 million adults living in America with disabilities are unable to
21 determine which hotels/motels are accessible and to reserve them. Thus,
22 there is a legal mandate to provide a certain level of information to disabled
23 travelers.

24 10. But despite the rules and regulations regarding reservation procedures,
25 a 2019 industry article noted that: "the hospitality sector has largely
26 overlooked the importance of promoting accessible features to travelers."

27 11. These issues are of paramount important. Persons with severe
28 disabilities have modified their own residences to accommodate their unique

1 needs and to ameliorate their physical limitations. But persons with disabilities
2 are never more vulnerable than when leaving their own residences and having
3 to travel and stay at unknown places of lodging. They must be able to ascertain
4 whether those places work for them.

5
6 **FACTUAL ALLEGATIONS:**

7 12. Plaintiff planned on making a trip in December of 2020 to the
8 Sacramento, California, area.

9 13. He chose the Residence Inn by Marriott Sacramento Airport Natomas
10 Hotel, located at 2618 Gateway Oaks Dr., Sacramento, California, because
11 this hotel was at a desirable price and location.

12 14. Plaintiff needs an accessible guestroom. He needs clearance around
13 beds, he needs accessible restroom facilities including accessible sinks,
14 accessible tubs or showers and accessible toilets. He needs sufficient
15 maneuvering clearance in and around the guestroom. He needs accessories to
16 be located within an accessible reach range. In short, he benefits from and
17 needs compliant accessible guestroom features.

18 15. Plaintiff went to the Residence Inn by Marriott Sacramento Airport
19 Natomas Hotel, website at [https://marriott.com/travel/sacsn-residence-inn-](https://marriott.com/travel/sacsn-residence-inn-sacramento-airport-natomas/)
20 [sacramento-airport-natomas/](https://marriott.com/travel/sacsn-residence-inn-sacramento-airport-natomas/) on October 19, 2020.

21 16. Plaintiff found that there was little information about the accessibility
22 of the rooms. For example, under the “Accessible areas with accessible routes
23 from public entrance” heading, it states: “Business center”, “Pool accessible”,
24 “Public entrance alternative” and “Fitness center”. These are vague and
25 conclusory statements. Likewise, under the “Guest room accessibility” tab it
26 states: “Bathroom grab bars”, “Bathtub grab bars”, “Roll in shower”, “Doors
27 with lever handles” and “Deadbolt locks lowered”. Under the various room
28 tabs, it makes statements such as: “This room type offers mobility accessible

1 rooms”, and “This room type offers accessible rooms with transfer showers”.
2 These vague and conclusory statements do not contain enough information to
3 allow Plaintiff to independently assess if the room and hotel are accessible. For
4 example, there is no mention if the bedroom has compliant clear floor space,
5 or if the toilet is accessible, or if the table/desk is accessible. Making matters
6 worse, the photos that accompany the room descriptions state: “Images may
7 not fully represent the room features you booked”.

8 17. The defendant’s reservation system failed to identify and describe the
9 accessible features in the guestroom chosen by the plaintiff in enough detail to
10 reasonably permit him to assess independently whether the particular
11 guestroom met his accessibility needs given his disability. The photos that
12 accompany those rooms do not show any accessible features.

13 18. This lack of information created difficulty for the plaintiff and the idea
14 of trying to book this room -- essentially ignorant about its accessibility --
15 caused discomfort for the Plaintiff.

16 19. The Plaintiff needs to ascertain the accessibility of the guestroom and is
17 entitled to have that information presented to him in a way to allow him to
18 independently assess the accessibility of his reservation based on that
19 presentation. This failure to provide adequate information makes it more
20 difficult for the Plaintiff to individually assess the guestroom prior to booking.
21 The reservation website fails to describe or provide any details regarding the
22 accessible features for patrons who use a wheelchair.

23 20. Plaintiff would like to patronize this hotel but is deterred from doing so
24 because of the lack of detailed information through the hotel’s reservation
25 system. Plaintiff not only travels frequently but is always on the lookout for
26 businesses that violate the law and discriminate against him and other persons
27 with disabilities, intending to have them comply with the law and pay statutory
28 penalties.

I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS

WITH DISABILITIES ACT OF 1990 (On behalf of Plaintiff and against all Defendants.) (42 U.S.C. section 12101, et seq.)

21. Plaintiff re-pleads and incorporates by reference, as if fully set forth again herein, the allegations contained in all prior paragraphs of this complaint.

22. Under the ADA, it is an act of discrimination to fail to make reasonable modifications in policies, practices, or procedures when such modifications are necessary to afford goods, services, facilities, privileges advantages or accommodations to person with disabilities unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the those goods, services, facilities, privileges advantages or accommodations. See 42 U.S.C. § 12182(B)(2)(A)(ii).

23. Specifically, with respect to reservations by places of lodging, a defendant must ensure that its reservation system, including reservations made by “any means,” including by third parties, shall:

- a. Ensure that individuals with disabilities can make reservations for accessible guest rooms during the same hours and in the same manner as individuals who do not need accessible rooms;
- b. Identify and describe accessible features in the hotels and guest rooms offered through its reservations service in enough detail to reasonably permit individuals with disabilities to assess independently whether a given hotel or guest room meets his or her accessibility needs; and
- c. Reserve, upon request, accessible guest rooms or specific types of guest rooms and ensure that the guest rooms requested are blocked and removed from all reservations

1 systems.

2 *See* 28 C.F.R. § 36.302(e).

3 24. Here, the defendant failed to modify its reservation policies and
4 procedures to ensure that it identified and described accessible features in the
5 hotels and guest rooms in enough detail to reasonably permit individuals with
6 disabilities to assess independently whether a given hotel or guest room meets
7 his or her accessibility needs and failed to ensure that individuals with
8 disabilities can make reservations for accessible guest rooms during the same
9 hours and in the same manner as individuals who do not need accessible
10 rooms.

11
12 **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL**
13 **RIGHTS ACT** (On behalf of Plaintiff and against all Defendants.) (Cal. Civ.
14 Code § 51-53.)

15 25. Plaintiff repleads and incorporates by reference, as if fully set forth
16 again herein, the allegations contained in all prior paragraphs of this
17 complaint. The Unruh Civil Rights Act (“Unruh Act”) guarantees, inter alia,
18 that persons with disabilities are entitled to full and equal accommodations,
19 advantages, facilities, privileges, or services in all business establishment of
20 every kind whatsoever within the jurisdiction of the State of California. Cal.
21 Civ. Code §51(b).

22 26. The Unruh Act provides that a violation of the ADA is a violation of the
23 Unruh Act. Cal. Civ. Code, § 51(f).

24 27. Defendants’ acts and omissions, as herein alleged, have violated the
25 Unruh Act by, inter alia, failing to comply with the ADA with respect to its
26 reservation policies and practices.

27 28. Because the violation of the Unruh Civil Rights Act resulted in difficulty
28 and discomfort for the plaintiff, the defendants are also each responsible for

1 statutory damages, i.e., a civil penalty. *See* Civ. Code § 52(a).

2
3 **PRAYER:**

4 Wherefore, Plaintiff prays that this Court award damages and provide
5 relief as follows:

6 1. For injunctive relief, compelling Defendants to comply with the
7 Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the
8 plaintiff is not invoking section 55 of the California Civil Code and is not
9 seeking injunctive relief under the Disabled Persons Act at all.

10 2. Damages under the Unruh Civil Rights Act, which provides for actual
11 damages and a statutory minimum of \$4,000 for each offense.

12 3. Reasonable attorney fees, litigation expenses and costs of suit, pursuant
13 to 42 U.S.C. § 12205; and Cal. Civ. Code § 52(a).

14
15
16 Dated: October 9, 2021

CENTER FOR DISABILITY ACCESS

17
18 By: /s/ Aaina Duggal
19 Aaina Duggal, Esq.
20 Attorneys for Plaintiff
21
22
23
24
25
26
27
28